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Attorneys for Movants
ELECTRONIC FRONTIER FOUNDATION and
FRED VON LOHMANN

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re Subpoenas to Electronic Frontier
Foundation and Fred von Lohmann

) **Case No. 3:10-mc-80276-JSW**
) [Related to *Arista Records v. Lime Wire LLC*,
) No. 06-5936 (KMW) (S.D.N.Y.)
)
) **DECLARATION OF FRED VON**
) **LOHMANN IN SUPPORT OF EXPEDITED**
) **MOTION TO QUASH SUBPOENAS**
)
) Date: no hearing date assigned
) (pursuant to order by Judge White)

1 I, Fred von Lohmann, declare pursuant to 28 U.S.C. § 1746 as follows:

2 1. I am a licensed attorney and a member in good standing of the California State Bar
3 Association. My Bar number is 192657.

4 2. From August 2001 until June of this year, I was a staff attorney employed by the
5 Electronic Frontier Foundation (“EFF”). The positions I held while at EFF were Senior Intellectual
6 Property Attorney and Senior Staff Attorney.

7 3. In 2001, prior to joining EFF, I wrote an article on the state of the law for secondary
8 liability for copyright infringement. A 2001 version of that article was attached to the Boyd
9 Declaration (Dkt. 9-4) as Exhibit 4. Over time, I changed this article as the law changed.

10 4. While working for EFF, I represented various clients, including Lime Wire LLC
11 (“Lime Wire”).

12 5. I believe Mark Gorton first contacted me in or about 2002 seeking legal advice and
13 counsel to Lime Wire, which I provided to Lime Wire at his request.

14 6. I continued to provide legal advice and counsel to Lime Wire from time to time,
15 including to Mr. Gorton and other personnel at Lime Wire, until I left the employ of EFF in June
16 2010.

17 7. While the very nature of the privilege makes it impossible to provide detail, I can
18 attest that:

19 a. My advice to Lime Wire was legal advice in my professional capacity.

20 b. I provided legal advice to Lime Wire in the course of a professional relationship.

21 c. The communications I had with Lime Wire related to the attorney-client
22 relationship, and both Lime Wire and I intended for those communications to be
23 protected by the privilege.

24 d. I have diligently kept confidential the communications between myself and Lime
25 Wire.

26 8. The Amicus Brief that EFF filed together with other interested groups and
27 associations, in *Arista Records v. Lime Wire LLC*, Case No. 06-5936 (KMW) (S.D.N.Y.) was not
28 submitted on behalf of either party in the case.

I declare under penalty of perjury that the foregoing is true and correct.

/s/

Fred von Lohmann

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